



## MEMORANDUM

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DATE: April 26, 2000

TO: Blake Reid, FAA Principal Security Inspector

FROM: Mark T. Torbeck, Director Corporate Security

SUBJECT: Notice of Proposed Rulemaking [NPRM] on the Certification of Screening Companies  
Docket No. FAA-1999-6673-39

cc: Debby McElroy, Vice-President Regional Airline Association

Midway Airlines appreciates the opportunity to provide comments on the NPRM regarding the Certification of Screening Companies.

### OVERVIEW

Midway Airlines agrees with the concept of the proposed program but has serious concerns regarding some of the proposed policies and procedures and their financial and operation impact on both the airlines and screening companies.

### SPECIFIC SECTIONAL COMMENTS

#### Subpart A - General

Section III.E.111.9 – Midway Airlines completely supports this portion of the provision. To often screeners are not only verbally but also physically assaulted/intimidated.

#### Subpart B – Security Program, Certificate and Operations Specifications

Section III.F., 111.01 – Midway Airlines opposes the requirement of making the air carriers responsible for the dissemination of sensitive materials – SD's, EA's, etc. Adding a second step does not enhance the goal of this proposed program. In fact, it could cause a delay in dissemination. Based on the intent of this rule, FAA should the lead in dissemination sensitive information to ensure that these documents are provided in a timely fashion – without delay thru a second party – and also that only the information required is disseminated. An airline may receive additional information which may not under part 191 be disseminated to a security screening company.

Section III G., 111.103, 111.105, 111.107 - Midway Airlines is strongly opposed to the establishment of a separate [second] security program for screening companies only. It is difficult enough to deal with the current ACSSP, which on many occasions is misinterpreted by both government and industry. The re-write of parts 107 and 108 has been a critical project for both government and industry, for it is hoped that greater clarity will result in its re-write. To add a second required manual, I believe will only cause more confusion and misinterpretation. I believe the current ACSSP could accommodate a new section thus helping to ensure greater clarity and limited the number of manuals currently in circulation. Further, an additional manual only increases the potential for inappropriate dissemination or loss.

Regarding the airlines requirement to maintain a copy of each screening companies security program imposes a tremendous administrative burden. It does not seem necessary that the carriers take on this burden since the purpose of this proposed rule is to make the screening companies more accountable to the FAA. And, since the FAA is the certifying party, what purpose does it serve to require the carriers to maintain these documents.

Regarding the use of TIP, each year the SEIPT is faced with the prospect that the congress may not allocated appropriate funding to meet the deployment needs of this FAA established IPT. To date, all equipment that has been deployed has been initially purchased

by the government since this deployment is a matter of national security. But, there is no guarantee that this funding will be available to support deployment of TIP to everyone screening point in the nation. For the reason, the requirement of TIP should be eliminated from the NPRM.

The **requiring** of a copy of the security program at every location needs to include electronic available. The paper reduction act requires appropriate steps are taken to reduce the use of paper. Having the ability to have the document available electronically would not only meet the requirement of the proposed rule but also enhance the **security** of the documents contained in the ACSSP. Most carriers are **transitioning** to this type of dissemination. Having to format an additional manual or keep a hard copy again imposes not only an administrative burden but also financial.

Section III.H., 111.109 – Due to the complexity and cost of this NPRM, Midway Airlines believe that making this rule effective 60 days after final publication will impose an unnecessary burden both administratively and financially. We suggest that the effective date be extended to allow all affected parties ample time to meet all certifications requirements.

Section III.I., 111.111, 111.113 & 111.115 – Airline operations and expansion occur frequently. Advanced notice of the cities airlines will open is highly secretive and will be published with minimal notice. Based on this fact, if screening companies are required to have each city listed in the approved program, this will cause a delay in the airlines opening thus not only imposing a financial hardship on the screening company but, in this case, and more importantly, the airline. Screening companies should only have to notify FAA that they will commence operations at a specific location beginning on whatever date they indicate. This **specific** issue will be highly contentious if the opening of a city by an airline is delayed due to the inability of the screening company to receive approval to conduct screening, especially since they are already certificated.

Section III.J., 111.117 – Oversight is critical for both airline and government. But, when a carrier decides to do their own screening [utilize airline employees, not a contractor], their certification should exist under their currently approved security program – ACSSP. Airlines are already certificated under 14 CFR Part 108. To require airlines to hold a screening company certificate will be administratively and financially burdensome.

Section III.K., 111.119 – Again, consideration should be given to the electronic maintenance of files. Physical copies should not be required if the files are available electronically. This again supports the paper reduction act.

Section III.N., 205 – Midway Airlines believes that it is inappropriate for the FAA to establish law requiring educational backgrounds when there is already established standards for employment, customer service and civil rights issues. For the FAA to recommend federal law be established is inappropriate. For these reasons, all references to these types of requirements should be eliminated from the proposed rule.

Section III.P., 111.209, 111.Q., 111.121, R., 111.213 – Establishment of specific functions within a corporation should not be the function of the FAA. Establishing standards and allowing individual corporations to meet those standards has been and should continue to be the goal of the FAA. Training requirements for specific individuals [instructors] should be performance based not hourly regulated. This is not to say that actual experience is inappropriate or non-essential but to require a specific time sequence without consideration or knowledge of a specific instructors' background establishes an unnecessary burden. Again, this category should be performance based. It is suggested that the establishment of an SPC position and the requirement establishing 40 hours of OJT for training instructors be reviewed.

Section III.S., 111.215 – Midway Airlines is opposed to the proposed requirement that an airline employee-monitor be required to be present during the screener testing. This requirement would impose a significant burden both administratively and financially, due to the necessity for additional staffing. The same goal can be appropriately accomplished through reasonable oversight and periodic audit.

Section III.V., 111.221 – Midway Airlines believes that a more prudent way to ensure mobility of screener records would be to require the screening company to transfer its original screening records to the local CASFO/CASFU when necessary. Airlines frequently enter and exit various markets for various reasons. Retention by an airline who has left a market would not improve mobility.

Section III.W., 111.223 – The use of **TIP** has been highly supported by the airline industry as represented on the SEIPT. Plans are being developed for deployment of TIP to all screening points nationwide. But, this specific tool is just in the early stages of validation. Data does not yet exist for the establishment of testing protocols, performance, utilization and all other associated practices. It is currently not possible to respond to some of the issues in this section due to the data not yet being available for analysis. Until the data is made available, it is suggested that this section be tabled.

Section IV

Section IV.E., 108.201(i) & (k); 109.203(b), (c) & (d); and 129.25(l), (m), & (n). - Midway Airlines strongly opposes these proposals for carrier oversight. If mandated, these requirements would impose an unnecessary burden, both administratively and financially. It is suggested that these requirements should rest with the **screening companies**, thus making all parties - government, industry & contractors - equal with regard to compliance and responsibility.

Section IV.F., 108.211(l) & 129.25(o). - Customer Service is not the role of the FAA when dealing with these types of issues. FAA's role is to provide security levels and ensure compliance, not dictate consumer relations or customer service. The airlines are extremely sensitive to this specific area. We deal with passenger's issues on every flight. We provide information and support through various forms of communication and should be allowed to continue in this fashion, without government interference. Midway Airlines believes that the FAA has no role in this process and strongly recommends this entire section be eliminated.

Section IV.I., 108.229, 109.205, & 129.25(p). - Please see previous Section IV.E. listed above, for response to this section.

**Compliance and Enforcement Issues**

Midway Airlines believes that the certification of screening companies will help to improve aviation security but only by making screening companies directly accountable to the FAA. Carriers should continue to be involved with these companies to ensure compliance is met, such as the utilization of equipment deployed to security checkpoints or outlined under the GSC program. But, Midway Airlines is strongly opposed to the proposal by FAA to take enforcement actions against both parties, even when carriers have taken every reasonable and required action to ensure compliance. If the air carrier is out of compliance then appropriate action should be taken, with the same policy applied to **screening** companies. But, to take action against both over what may be **the** fault of only one party strikes of double jeopardy.

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Thank you for your consideration and opportunity to **ur** response.